UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,086	01/13/2004	Christopher L. Oesterling	GP-304326	3111

60770 7590 09/28/2009

General Motors Corporation
c/o REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P.O. BOX 4390
TROY, MI 48099-4390

EXAMINER	
REGO, DOMINIC E	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
09/28/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/756,086
Filing Date: January 13, 2004
Appellant(s): OESTERLING, CHRISTOPHER L.

James D. Stevens
For Appellant

EXAMINER'S ANSWER

1. This is in response to the appeal brief filed 07/06/2009 appealing from the Office action mailed 01/16/2009.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interference, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,704,564	Lange et al.	09-2000
6,266,007	Lennen	10-1997
6,240,368	Kreft	07-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lange et al. (US Patent #6,704,564).

Regarding claims 1,11, and 16, Lange teaches a method of initiating a vehicle data upload function at a plurality of mobile vehicles, the method comprising:

monitoring a radio system broadcast channel using a satellite radio receiver *(Col 1, lines 14-39, Col 3, lines 50-66, and Col 4, lines 9-26, especially Col 1, lines 24-39, Lange teaches in-vehicle telematics device typically includes various vehicle inputs that receive data relating to vehicle conditions (e.g., engine status, wiper status, air bag status, vehicle speed, et cetera (etc.)), an input to receive information relating to vehicle position (e.g., a Global Positioning System (GPS) receiver or GLObal NAvigation Satellite System (GLONASS) receiver), and a data/cellular transceiver. The in-vehicle device communicates locations-specific information to the service center)* in each of the plurality of mobile devices for a call center initiated vehicle data upload command signal sent to the plurality of mobile vehicles *(Col 4, lines 9-26; Col 5, lines 6-41: Lange teaches the trigger configuration signal 150 is transmitted from a service center or call center 170 that communicates with a plurality of telecommunication device. The telecommunications device 110 receives the trigger configuration signal 150 and preferably stored in memory 130. The trigger configuration signal 150 is an electronic message (data upload command signal related to vehicle or system properties, speed, temperature, system status, or position etc.) that instructs the telecommunications device 110 as to the triggers or combination of triggers to be applied at a given time. The configuration signal 150 preferably comprises a command instructing the device to update (upload) its trigger configuration. The command preferably specifies a particular*

telematics functions to which the trigger configuration signal applies (e.g., traffic reporting, fleet management, vehicle diagnostics, etc.); and,

for each of plurality of mobile vehicles, determining whether the vehicle data upload command signal corresponds to that mobile vehicle *(Col 4, lines 9-26; Col 5, lines 6-41: Lange teaches the trigger configuration signal 150 is transmitted from a service center or call center 170 that communicates with a plurality of telecommunication device. The telecommunications device 110 receives the trigger configuration signal 150 and preferably stored in memory 130. The trigger configuration signal 150 is an electronic message (data upload command signal related to vehicle or system properties, speed, temperature, system status, or position etc.) that instructs the telecommunications device 110 as to the triggers or combination of triggers to be applied at a given time. The configuration signal 150 preferably comprises a command instructing the device to update (upload) its trigger configuration. The command preferably specifies a particular telematics functions to which the trigger configuration signal applies (e.g., traffic reporting, fleet management, vehicle diagnostics, etc.)*;

extracting the vehicle data upload command signal from the broadcast channel based on the determination (Col 4, lines 9-26; Col 5, lines 6-26, especially Col 4, lines 9-26, Lange teaches t*he trigger configuration signal 150 is an electronic message (data upload command signal) related to vehicle or system properties, speed, temperature, system status, or position etc) that instructs the telecommunications device 110 as to the triggers or combination of triggers to be applied at a given time. Each message trigger is an expression that defines one or more conditions that must be satisfied for*

the telecommunications device 110 to transmit a message 140 to a service center 170. The conditions are preferably based upon fixed parameters (e.g., vehicle or system properties) or dynamic values (e.g., speed, temperature, system status, or position) available to the telecommunications device 110 via sensors and/or other data input);

communicating the vehicle data upload command signal between the satellite radio receiver and a telematics unit on the vehicle (*Col 1, lines 14-39: Lange teaches in-vehicle telematics device typically includes various vehicle inputs that receive data relating to vehicle conditions (e.g., engine status, wiper status, air bag status, vehicle speed, et cetera (etc.)), an input to receive information relating to vehicle position (e.g., a Global Positioning System (GPS) receiver or GLObal NAvigation Satellite System (GLONASS) receiver).* Col 5, lines 6-41: Lange teaches *the telematics device 210 preferably includes a wireless transceiver 220 (transmitter and GPS receiver or GLONASS receiver where command signal receives from telematics antenna) that receives a configuration signal (vehicle data upload command signal) 250 from a service center (not shown) where telematics unit 210 includes GPS receiver to receive a configuration signal. The configuration signal 250 preferably comprises a command instructing the device to update (upload) its trigger configuration)*; and

performing a vehicle data upload function using the telematics unit based on the extracted vehicle data upload command signal *(Col 5, lines 27-63: Lange teaches the telematics device 210 preferably includes a wireless transceiver 220 that receives a configuration signal 250 from a service center (not shown). The configuration signal 250 preferably comprises a command instructing the device to update (upload) its trigger*

configuration. The command preferably specifies a particular telematics functions to which the trigger configuration signal applies (e.g., traffic reporting, fleet management, vehicle diagnostics, etc.). The configuration signal 250 comprises a dynamic logic expression 262. The configuration signal 250 instructs the telematics device 210 to update a trigger configuration so as to transmit a message relating to fleet management if the dynamic logic expression 262 is satisfied. Dynamic logic expression 263 relates to vehicle diagnostics and comprises the following expression: "If OIL_TEMPERATURE>150)." A message is transmitted by the telematics device 210 relating to the applicable telematics function if the dynamic logic expression associated with that function is satisfied).

Regarding claims 2,12,and 17, Lange teaches the method further comprising:

determining the plurality of mobile vehicles at a call center based on a service criterion (Col 5, lines 5-26).

Regarding claim 3, Lange teaches the method wherein the vehicle data upload function comprises a vehicle data type (Col 5, lines 26-42).

Regarding claim 4, Lange teaches the method wherein the vehicle data upload command signal comprises at least one telematics unit identifiers *(Col 5, lines 5-10: Lange teaches the trigger configuration signal 150 is transmitted from a service center 170 that communicates with a plurality of telecommunications devices (telematic devices). In order to communicate with a plurality of telecommunication devices (telematic devices), a service center 170 or call center must have an identification number of telematics unit for providing services).*

Regarding claims 5,13,and 18, Lange teaches the method wherein performing the vehicle data upload function comprises:

initiating a vehicle data upload call from a telematics unit in the plurality of mobile vehicles to a call center in response to the vehicle data upload command signal *(Col 3, lines 34-47)*.

Regarding claims 6,14,19, Lange teaches the method wherein performing the vehicle data upload function comprises: initiating a vehicle data storage of data collected by the vehicle in at least one of the plurality of mobile vehicles in response to the vehicle data upload command signal (Col 3, lines 15-25; Col 5, lines 11-26; Col 5, line 64-Col 6, line 5).

Regarding claim 7, Lange teaches the method wherein the vehicle data upload command signal is associated with a vehicle type (Col 5, lines 27-63; Col 6, lines 6-26).

Regarding claim 8, Lange teaches the method wherein the vehicle data upload command signal is generated in response to a geographic based diagnostic event (Col 5, line 27-Col 6, line 26).

Regarding claim 9, Lange teaches the method wherein the vehicle data type is selected from a group consisting of vehicle performance data, vehicle diagnostic data, vehicle status data, and vehicle operational data (Col 4, lines 9-26; Col 5, line 27-Col 6, line 26).

Regarding claims 10,15, and 20, Lange teaches the method wherein determining at the plurality of mobile vehicles whether the vehicle data upload command signal corresponds to the mobile vehicle comprises:

comparing the plurality of telematics unit identifiers of the vehicle data upload command signal to a telematics unit identifier the mobile vehicle; and detecting if one of the plurality of telematics unit identifiers of the vehicle data upload command signal matches the telematics unit identifier of the mobile vehicle *(Col 5, lines 5-lines 62: Lange teaches the trigger configuration signal 150 is transmitted from a service center 170 that communicates with a plurality of telecommunications devices where each of the telecommunication devices or telematic devices have a identifier identify the trigger configuration signal).*

(10) Response to Argument

4. Appellant's arguments with respect to claims 1-20 have been fully considered but they are not persuasive.

Claims 1, 11, and 16

(A) The Appellant argued that "a GPS receiver such as disclosed in Lange is not a "satellite radio receiver" (See page 7, last paragraph-page 10, line 3, especially page 9, second paragraph, last 2 lines).

In response to the argument (A), the examiner respectfully disagrees with the appellant's argument. In Col 1, lines 24-39, Lange teaches in-vehicle telematics device typically includes various vehicle inputs that receive data relating to vehicle conditions

(e.g., engine status, wiper status, air bag status, vehicle speed, et cetera (etc.)), an input to receive information relating to vehicle position (e.g., a Global Positioning System (GPS) receiver or Global Navigation Satellite System (GLONASS) receiver), and a data/cellular transceiver. According to Lennen (US Patent #6,266,007), Col 7, lines 5-22, the GPS Receiver rf channel of the GPS/GLONASS Receiver receives the GPS satellite signals, the GLONASS Receiver rf channel of the GPS/GLONASS Receiver receives the GLONASS satellite signals. Further, Kreft (US Patent #6,240,368), Col 2, lines 27-33, teaches satellite receiver 2 is preferably a GPS receiver for receiving GPS satellite signals and/or a corresponding receiver for GLONASS satellite. Therefore, the examiner contends that a GPS/GLONASS Receiver is a satellite radio receiver.

(B) The Appellant argued that the Examiner has failed to show and, in fact, Lange does not disclose, at least the following three elements from Appellant's independent claims: (1) monitoring a radio system broadcast channel using a satellite radio receiver; (2) monitoring the radio broadcast channel using a satellite radio receiver for a call center initiated vehicle data upload command signal sent to the plurality of mobile vehicles; and (3) communicating the vehicle data upload command signal between the satellite radio receiver and a telematics unit on the vehicle (Page 7 of the appellant's argument).

In response to the argument (B), the examiner respectfully disagrees with the appellant's argument. Col 1, lines 24-39, Lange teaches in-vehicle telematics device typically includes various vehicle inputs that receive data relating to vehicle conditions (e.g., engine status, wiper status, air bag status, vehicle speed, et cetera (etc.)), an input to receive information relating to vehicle position (e.g., a Global Positioning System (GPS) receiver=satellite radio receiver or GLObal NAvigation Satellite System (GLONASS) receiver=satellite radio receiver), and a data/cellular transceiver. The in-vehicle device communicates locations-specific information to the service center. Col 1, lines 54-66, Lange teaches telematics devices providing FCD service frequently check certain conditions, based on the sensors available to the device (e.g., vehicle location and speed). If defined threshold values are passed, a message is sent to a service center. This message contains data that allows the service center to deduct information about the traffic flow in the vehicle's vicinity. Col 4, lines 9-26, Lange teaches a trigger configuration signal 150 is transmitted to the telecommunications device 110 and preferably stored in memory 130. The trigger configuration signal 150 is an electronic message that instructs the telecommunications device 110 as to the triggers or combination of triggers to be applied at a given time. That means Telematic device 110 (See Fig. 1) constantly monitoring a radio system broadcast channel and vehicle condition based on the sensors available. Above citations cover first element "(1) monitoring a radio system broadcast channel using a satellite radio receiver".

Secondly, in Col 3, lines 40-47, Lange teaches Telematics systems generally comprise a plurality of in-vehicle telematics devices wirelessly connected to a service

center (call center). The telematics device generally communicates location-specific information to the service center, and in turn the service center communicates with the telematics device via a cellular telephone interface. Col 4, lines 9-26 and Col 5, lines 6-41, Lange teaches the trigger configuration signal 150 is transmitted from a service center or call center 170 that communicates with a plurality of telecommunication device. The telecommunications device 110 receives the trigger configuration signal 150 and preferably stored in memory 130. The trigger configuration signal 150 is an electronic message (data upload command signal related to vehicle or system properties, speed, temperature, system status, or position etc.) that instructs the telecommunications device 110 as to the triggers or combination of triggers to be applied at a given time. The configuration signal 150 preferably comprises a command instructing the device to update (upload) its trigger configuration. The command preferably specifies a particular telematics functions to which the trigger configuration signal applies (e.g., traffic reporting, fleet management, vehicle diagnostics, etc.) which covers the second element "(2) monitoring the radio broadcast channel using a satellite radio receiver for a call center initiated vehicle data upload command signal sent to the plurality of mobile vehicles".

Finally, Col 1, lines 27-35, Lange teaches the typical telematics system includes a number of in-vehicle telematics devices that are connected wirelessly to a central service center. The in-vehicle telematics device typically includes various vehicle inputs that receive data relating to vehicle conditions (e.g., engine status, wiper status, air bag status, vehicle speed, et cetera (etc.)), an input to receive information relating to vehicle

position (e.g., a Global Positioning System (GPS) receiver or GLObal NAvigation Satellite System (GLONASS) receiver), and a data/cellular transceiver. Since above underlying parts teaches the in-vehicle telematics device typically includes various vehicle inputs that receive data relating to vehicle conditions, an input to receive information relating to vehicle position (e.g., a Global Positioning System (GPS) receiver or GLObal NAvigation Satellite System (GLONASS) receiver), it's very clear that GPS receiver or GLONASS receiver or satellite radio receiver is not embedded within telematics unit and communicating the vehicle data upload command signal between a satellite radio receiver and a telematics unit. Further, Col 5, lines 6-41, Lange teaches the telematics device 210 preferably includes a wireless transceiver 220 (transmitter and GPS receiver or GLONASS receiver where command signal receives from telematics antenna) that receives a configuration signal (vehicle data upload command signal) 250 from a service center where telematics unit 210 includes GPS receiver to receive a configuration signal. The configuration signal 250 preferably comprises a command instructing the device to update (upload) its trigger configuration.
In this case, satellite radio receiver same as GPS receiver or GLONASS receiver is embedded within telematics unit and on the other hand, in claimed invention, satellite receiver and telematic device are separated from each other. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Lange device to Applicant device, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Nerwin v. Erlichmena, 168 USPQ 177, 179. That covers last element "(3)

communicating the vehicle data upload command signal between the satellite radio receiver and a telematics unit on the vehicle".

The examiner's response regarding claims 1,11, and 16 above applies equally to claims 2-10,12-15, and 17-20.

(11) Related Proceeding(s) Appendix

5. No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Dominic E Rego/
Examiner, Art Unit 2618

Conferees:

/Duc Nguyen/
Supervisory Patent Examiner, Art Unit 2618

/Edward Urban/
Supervisory Patent Examiner, Art Unit 2618